

DUCHESNE COUNTY

PLANNING COMMISSION MEETING

JANUARY 5, 2022

REQUEST TYPE:	Zoning Ordinance Text Amendment
APPLICANT:	Duchesne County
PROPOSAL:	Amendments of the Zoning Ordinance and Zoning Map associated with Large Concentrated Animal Feeding Operations (Large CAFOs)
LOCATION:	See Exhibit A of Ordinance #21-390
ZONING DESIGNATION:	A-5

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FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

Duchesne County proposes to amend its zoning ordinance to comply with the “Large Concentrated Animal Feeding Operations Act” passed in the 2021 Utah general legislative session.

This act, which is codified in Sections 17-27a-1101 through 1104 of the Utah Code, states that *“The legislative body of a county desiring to restrict siting of large concentrated animal feeding operations shall adopt a county large concentrated animal feeding operation land use ordinance in accordance with this part by no later than February 1, 2022.”*

The County desires to regulate such operations due to the detrimental impacts such land uses can have on the community. The Act requires the County to establish geographic areas of sufficient size to support large concentrated animal feeding operations and establish procedures for an applicant to follow when seeking to site such a facility.

The staff proposed a geographic area for consideration and has proposed that large concentrated animal feeding operations be processed as a conditionally permitted use in that area. The Planning Commission conducted a public hearing on December 1st to consider the proposed ordinance. As a result of comments received, the staff met with a working group on December 15th to fine-tune the ordinance and address concerns. The ordinance was also reviewed by the Utah Dept. of Agriculture and Food and found to be acceptable.

The working group suggested that the Large CAFO overlay zone be extended into the Arcadia area (around 4C Farms) and into the Pleasant Valley area to the county line. The latest maps are attached to the Ordinance.

The County Commissioners are scheduled to open their public hearing and receive the Planning Commission recommendation on January 10th at 1:30 PM. If needed, the hearing could be continued until January 24th for final action. There is a state-imposed deadline of February 1, 2022 to complete the process.

The ordinance does nothing to affect animal feeding operations on current or future farms when the number of animals falls below the thresholds for large CAFOs.

The ordinance does not prevent existing large CAFOs in the County from expanding in land area or the number of animals.

2. HISTORY OF EVENTS

October 22, 2021	The application was submitted.
November 10, 2021	The application was deemed complete.
November 17 & 24, 2021	Notice of Hearings published in the Uintah Basin Standard
December 1, 2021 and	Planning Commission hearings
January 5, 2022	
January 10, 2022	County Commissioner’s hearing

3. ZONING ORDINANCE: The procedure for considering amendments to the zoning map or text are set forth below:

SECTION 8-1-7: AMENDMENTS TO TITLE AND MAP:

A. Application: A proposed amendment to this title and map may be initiated by any property owner, any person residing in the county, any business owner, the county commission,

planning commission, board of adjustment or the county staff by filing an application for zoning ordinance and map amendment. **Findings: The applicant is Duchesne County.**

B. Notice of Public Hearings and Public Meetings:

1. The county shall give:
 - a. Notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; and
 - b. Notice of each public meeting on the subject.
2. Each notice of a public hearing under subsection B.1.a. of this section shall be:
 - a. Mailed to each affected entity at least ten (10) calendar days before the public hearing;
 - b. Posted:
 - (1) In at least three (3) public locations within the county; or
 - (2) On the county's official website; and
 - c. Published:
 - (1) In a newspaper of general circulation in the area at least ten (10) calendar days before the public hearing; and
 - (2) On the Utah public notice website at least ten (10) calendar days before the public hearing; or
 - (3) Mailed at least ten (10) days before the public hearing to:
 - (A) Each property owner whose land is directly affected by the land use ordinance change; and
 - (B) Each adjacent property owner within three hundred feet (300') of the boundary of the rezone area.
3. Each notice of a public meeting under subsection B. 1. b. of this section shall be at least twenty-four (24) hours before the meeting and shall be posted:
 - a. In at least three (3) public locations within the county; or
 - b. On the county's official website.
4. a. If the county plans to hold a public hearing in accordance with section 17-27a-502 of the Utah code to adopt a zoning map or map amendment, the county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed map at least ten (10) days prior to the scheduled day of the public hearing.

b. The notice shall:

- (1) Identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;
- (2) State the current zone in which the real property is located;
- (3) State the proposed new zone for the real property;
- (4) Provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;
- (5) State that the owner of real property may no later than ten (10) days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;
- (6) State the address where the property owner should file the protest;
- (7) Notify the property owner that each written objection filed with the county will be provided to the municipal legislative body; and
- (8) State the location, date, and time of the public hearing described in section 17-27a-502 of the Utah code.

c. If a county mails notice to a property owner in accordance with subsection B. 2. c. (3) of this section for a public hearing on a zoning map or map amendment, the notice required in this subsection B. 4. may be included in or part of the notice described in subsection B. 2. c. (3) of this section rather than sent separately.

5. The planning commission shall consider all written objections received during their public hearing process and forward a copy of all such objections to the county commissioners.
6. The county commission is designated as the land use authority for zoning text or map amendments. The commission shall consider the proposed zoning ordinance text or map amendment and the recommendation of the planning commission pursuant to the procedures established by this section and Utah Code Annotated. The county commission may approve the amendment, revise the proposed amendment and approve the proposed amendment as revised, or reject the proposed amendment. There is no minimum area or diversity of ownership requirement for a zone designation. Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or the invalidity of a county decision.

Findings: The public notice requirements have been met by publication of the hearings notice in the Uintah Basin Standard on November 17 & 24, 2021, on the county website, posting in the county administration building and, in the Utah, Public Notice website. Notice of the public hearings was also mailed to the owners of land within the first draft Large CAFO area on November 15, 2021. Notices were mailed to property owners within the expanded overlay zone area on December 23, 2021.

Planning Commission agendas are emailed to affected entities and interested parties one week in advance of the meeting.

C. Criteria for Approval: In considering a proposed amendment to the zoning ordinance and map, the applicant shall identify, and the planning staff, planning commission and the county commission shall consider, the following factors:

1. The overall community benefit of the proposed amendment; **Findings: The amendments have been proposed primarily to address changes to state law as a result of the 2021 legislative session; which addressed the large concentrated animal feeding operations issue (which has been an issue especially in areas with large hog farms).**
2. Consistency with the goals and policies of the general plan; **Findings: The general plan does not specifically address the issues dealt with by the 2021 Utah legislative session and the Large Concentrated Animal Feeding Operations Act; but the County is obligated to abide by the terms of this act if the County wishes to regulate the location of such land uses.**
3. Compatibility with the neighborhood; **Findings: The county has attempted to pick locations of sufficient size for large concentrated animal feeding operations. The areas, as shown on Exhibit A of the ordinance (Sheets 1 and 2), are located in the Arcadia area [near the 4C Farms dairy operation and south-southeast of Bridgeland into Pleasant Valley, where there are existing concentrated animal feeding operations such as the Fitzgerald dairy, the Under the Hill Dairy (Scott Harvey) and the Henderson cattle feed lot.**

The Large Concentrated Animal Feeding Operations Act establishes the following criteria to consider when establishing areas where such operations are permitted:

A. Distances measured in feet from:

1. Residential zones; **Findings: The nearest residential zones are located in Duchesne City (5.1 miles to the northwest) and Myton City (2.0 miles to the north).**
2. Hospitals and health care facilities; **Findings: The nearest hospital and health care facilities are located in Duchesne (5.7 miles to the northwest).**
3. Public uses; **Findings: The nearest public areas, such as public parks, are located in Duchesne City and Myton City (5 and 2 miles respectively from the proposed Large CAFO area).**
4. Public or Private Educational facilities; **Findings: The nearest public or private educational facilities are located in Duchesne City and Myton City (5 and 2 miles respectively from the proposed Large CAFO area).**
5. Place of religious assembly; **Findings: The nearest place of religious assembly is located in Bridgeland (about 1.5 miles north of the boundary of the proposed Large CAFO area) and in Myton, (about 2 miles north of the overlay zone).**
6. Commercial uses; **Findings: The nearest commercial uses are in the**

Pariette Road area (in close proximity to the proposed Large CAFO area proposed for Pleasant Valley).

7. Municipal boundaries; **Findings:** The nearest municipal boundaries are located at Duchesne City (5.1 miles to the northwest) and Myton City (2.0 miles to the north).
 8. State highways and County Class B roads; **Findings:** The nearest state highway is Highway 40, which is one mile north of the proposed Large CAFO area at its closest point near Bridgeland. Several County Class B roads provide access to the proposed Large CAFO areas, including 12000 West, the Antelope Canyon Road, the Shearing Corral Cutoff Road, the Sowers Canyon Road, the BLM Fence Road, the Pariette Road, the Pleasant Valley Road and the Wells Draw Road.
- B. Prevailing winds; **Findings:** Prevailing winds are generally from the southwest to the northeast. This means that during the most common weather conditions, the Duchesne area would be less impacted than the Bridgeland and Myton areas by odors from existing and future Large CAFOs.
- C. Topography; **Findings:** Variable topography in the area would limit sight of some Large CAFO facilities but would not limit transmission of odors.
- D. Economic benefits to the County; **Findings:** Duchesne County currently has few Large CAFOs. Should a new Large CAFO wish to locate in Duchesne County, there would be economic benefits to consider at that time. Existing animal feeding operations would be able to expand under the ordinance provisions, which would be economically beneficial to the operator and the County.
- E. Reasonable access to transportation, water and power infrastructure. **Findings:** There is reasonable access to transportation via several County Class B Roads to Highway 40. Access to culinary water and power infrastructure is varied and limited in some sections of the proposed Large CAFO area but generally available in the Arcadia and Pleasant Valley areas. East Duchesne or Johnson Water would be the most likely sources of culinary water for extension to new sites. Moon Lake Electric has power infrastructure in more diverse locations when service has been requested in oilfield locations.
4. What changes have occurred in the neighborhood since the zoning ordinance and map or latest amendment was enacted; **Findings:** There have been no significant changes in these predominately agricultural and oilfield areas.
 5. Whether a change in the use for the affected properties will unduly affect the uses of adjoining properties; and **Findings:** The establishment of areas in which applications for Large CAFOs could be considered does not automatically ensure such a use would be established there. If an application were received, a public hearing would be required under the conditional use permit process. During that process, there would

be analysis done to determine if conditions could be imposed to mitigate all reasonably anticipated negative impacts. All Large CAFOs would be required to meet all state and federal requirements for the protection of surface and groundwater resources, including the submission of a Comprehensive Nutrient Management Plan (CNMP) for approval before the start of operations. The installation of anaerobic digesters before starting operations is another potential requirement of the CNMP to lessen odor concerns.

6. Consider the interest of the applicant. **Findings: The County is the applicant in this case and has an interest in amending its zoning ordinance to enable local regulation of Large CAFOs in accordance with state law.**

D. Effect of Amendment: An amendment to the zoning ordinance and map shall not authorize the development of land. After an amendment has been approved by the county commission, no development shall occur until the required development permits and licenses have been issued by the county.

CONCLUSIONS

1. The request complies with the text and map amendment criteria in Section 8-1-7 of the Zoning Ordinance.
2. The request is valid.

RECOMMENDATION

Recommended Motion:

I move that the Planning Commission recommend to the Duchesne County Commissioners the approval of the amendments to the Duchesne County Zoning Ordinance and Zoning Map as set forth in proposed Ordinance #21-390 and Exhibit A.

Mike Hyde, AICP
Community Development Administrator